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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,652	03/05/2002	Brady Dow	KOMBEA-000130	9165
63614	7590	06/18/2007		
THE HAMILTON LAW FIRM PC 8555 W. BELLEVIEW AVE. G21-139 LITTLETON, CO 80123			EXAMINER BROOKS, MATTHEW L	
			ART UNIT 3629	PAPER NUMBER
			MAIL DATE 06/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/091,652

Applicant(s)

DOW, BRADY

Examiner

Matthew L. Brooks

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-29,32-34 and 38-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-29,32-34 and 38-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 (b) is objected to because of the following informalities: it is indefinite as to who selects the approach.
2. Claim 8 the system is objected to because of the wherein language, particularly in regards to (b) "a communication device *which* accepts..." is suggested.
3. Claim 25 is objected to because for the first time in the claims Applicant uses the term "conversation"?
4. Claim 49 is objected to because "...is a second access of the language."
5. Appropriate correction is required.

Claim Rejections - 35 USC § 112 1st

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 5, 8, 46-50 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the present case Applicant has amended the claims so that the presentation starts in one form or language and then changes to another. Applicant is asked to provide support and show examiner where in the specification there is written description of the new amendments/ claims.

Claim Rejections - 35 USC § 112 2nd

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-2 and 5-29 and 32-34 and 38-51 are with problems/limitations discussed below are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. With respect to the first problem in claim 1 (for example) Applicant in (b) starts by selecting an approach, wherein the approach comprises a script and a script comprises a first presentation and a second presentation. Then Examiner turns to claim 8 (d) where now the Applicant has deleted the term approach (so now there is none) and starts with a script. Now the script comprises a group of script items... then it gets very confusing because the script comprises a first presentation. Now the Applicant has both the presentation and the script comprised of "script items" Examiner is not even sure what is meant by all of newly added matter. Further still now the presentation, which Applicants spends much time saying that this is the form are presented in a first form and second form. For purposes of this examination the claim/s read as a user of the system can select a script and depending upon the situation can chose an appropriate response and tone.

11. Claim 25 the presentation is made to one ore more recipients. It is indefinite as to how many recipients or which of the plurality will be contacted.

12. Claim 51, Examiner needs clarification as to the Sign language, is that being used to communicate with a user or recipient of the system?

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

14. Claims 1-2 and 8-29 and 32-34 and 38-45 and 46 are rejected under 35 U.S.C. 102(a) as being anticipated by Noble (PN 6,356,634).

15. With respect to **claim 1**: Noble Teaches

A method for interacting with one or more recipients, the method comprising:

(a) providing a conversation control system (C2, L16-17 and lines 7-8 of the Abstract “the communication system”);

(b) selecting an approach via the conversation control system, wherein the approach comprises a script, and wherein the script comprises a first presentation and a second presentation (C2, L35-48 and Fig 3 user of system selects 40 “play voice” or 42 “present text” and Fig 4, Campaign cell 1, cell 2, cell 3 which all of ordinary skill knows that a campaign is a script and user in this case has a plurality of campaigns available and C1, 55-58 user “responds with an approved answering phrase that has been determined to be most effective”); and

(c) selecting the first presentation C2, L35-48 and Fig 3 user of system selects 40 “play voice” or 42 “present text” and Fig 4, Campaign cell 1, cell 2, cell 3 which all of ordinary skill knows that a campaign is a script and user in this case has a plurality of campaigns available and C1, 55-58 user “responds with an approved answering phrase that has been determined to be most effective”; and

(d) communicating with a recipient, wherein at least a portion of communication provided to the recipient includes the first presentation in an order indicated by the script and provided via the conversation control system (C2, L48-50 and C2, L35-48 and Fig 3 user of system selects 40 “play voice” or 42 “present text” and Fig 4, Campaign cell 1, cell 2, cell 3 which all of ordinary skill knows that a campaign is a script and user in this case has a plurality of campaigns available and C1, 55-58 user “responds with an approved answering phrase that has been determined to be most effective”).

16. With respect to **claim 2**: Noble Teaches

wherein the script comprises a group of steps directing an interaction with the recipient (C1, 7-12 “...replay a set of voice files based on a pre-created script to one or more parties...” and C2, L24-27 and C1, 63-65 “set of prerecorded voice files to a selected population of parties” and C1, 65 bridging C2, 1-5 “enable the telephone representative to receive particular responses to selected questions/group of steps directing an interaction with the recipient).

17. With respect to **claim 6**: Noble Teaches

wherein the first presentation is a graphics format in which to present the script (Fig 2, text).

18. With respect to **claim 8 and 25 and 41**: Noble Teaches

A pseudo-conversation system/method for use between one or more users and one or more recipients, the system comprising:

a computer, wherein the computer includes a computer interface operable to receive input from a user (Fig 1);

a communication device, wherein the communication device accepts input from the computer and provides an audio output accessible to the user (Fig 1);

a computer readable medium (Fig 1, 18) accessible by the computer, wherein the computer readable medium includes:

a script, wherein the script comprises a group of script items selectable during a conversation with the one or more recipients (C5, 50-55), wherein the script comprises a first presentation and a second presentation (C5, 50-55; "plurality of cells"), wherein the first presentation includes the group of script items rendered in a first form, and wherein the second presentation includes the group of script items rendered in a second form (Noble teaches the ability to affect pitch control and tone C7, 15-22; and further teaches the response/second presentation is based upon the particular user);

wherein the computer readable medium further comprises instructions executable by the computer to:

receive a selection from the user, wherein the selection from the user indicates the first presentation of the script (C1, 53-60);

based on the selection from the user, access an audio output associated with the first presentation of the script (C1, 53-60); and

present the audio output to the communication device (C1, 53-60).

19. With respect to **claim 9**: Noble Teaches

wherein the instructions are further executable by the computer to:access a the script (C2, 40-45).

20. With respect to **claim 10**: Noble Teaches

wherein the instructions are further executable by the computer to:present a subset of the group of script items to the user via a display associated with the computer, wherein the selection from the user indicates one of the subset of the group of script items (C2, 40-45).

21. With respect to **claim 11**: Noble Teaches

wherein the selection from the user is a "no response", and wherein the system further comprises a microphone for accepting an audio input from the user to be presented via the communication device (C2, 53-55, TSR can handle live when needed).

22. With respect to **claim 12**: Noble Teaches

wherein the selection from the user is a first selection, the subset of the group of script items is a first subset of script items, the audio output is a first audio output, and wherein the instructions are further executable by the computer to:

present a second subset of script items to the user via the display, wherein the second subset of script items is based at least in part on the first selection (C2, 48-53);
and

receive a second selection from the user; based on the second selection from the user, access a second audio output; and present the second audio output to the communication device (C1, 53-60 responds with approved phrase).

23. With respect to **claim 13**: Noble Teaches

wherein the first subset of script items includes one or more salutations and the second subset of script items includes one or more responses chosen in anticipation of a recipient's response (C1, 50-68).

24. With respect to **claim 14**: Noble Teaches

wherein the subset of the group of script items are responses chosen in anticipation of a recipient's response (C1, 50-68).

25. With respect to **claim 15 and 38**: Noble Teaches

wherein the computer interface is a keyboard (Fig 1, 12).

26. With respect to **claim 16**: Noble Teaches

wherein the computer interface is a mouse (Fig 1, 12).

27. With respect to **claim 17**: Noble Teaches

wherein the computer interface is a microphone (Fig 5, "begin recording").

28. With respect to **claim 18 and 40**: Noble Teaches

wherein the communication device comprises a telephone device (Fig 1, 22).

29. With respect to **claim 19**: Noble Teaches

wherein the telephone device comprises a dialing device (Fig 1, 22).

30. With respect to **claim 20 and 27 and 43 and 44**le Teaches

a speaker coupled to the communication device, wherein an audio response from the recipient is presented to the user via the speaker (C2, 53-55).

31. With respect to **claim 21 and 39**: Noble Teaches

a microphone operable to accept audio input from the user (Fig 1, 22 inherent with telephone).

32. With respect to **claim 22**: Noble Teaches

wherein the telephone device accepts a telephone number from the computer, and dials the telephone number (Fig 3, A, 36 "auto dial selected party").

33. With respect to **claim 23 and 32**: Noble Teaches

wherein the telephone number is provided to the computer via the computer interface (C4, 38 functions on one computer).

34. With respect to **claim 24**: Noble Teaches

accessing a database associated with the computer to obtain an audio file; and converting the audio file to the audio output (C6, 9-11).

35. With respect to **claim 26**: Noble Teaches

receiving, at a computer, a telephone number associated with the at least one of the one or more recipients (C1, 53-63 and Fig 3, Auto dial);

providing the telephone number to a dialing device in communication with the computer (C1, 53-63 and Fig 3, Auto dial);

dialing the telephone number; and upon response of the ~~recipient~~ at least one of the one or more recipients, presenting a salutation to the at least one of the one or more recipients as an audio output (C1, 53-63 and Fig 3, Auto dial).

36. With respect to **claim 28 and 29 and 45**: Noble Teaches

wherein the first group of script items is determined based on an anticipated response from the recipient at least one of the one or more recipients(C1, 50-60 and C7, 55-60 responsive to the party).

37. With respect to **claim 33 and 42**: Noble Teaches

wherein the first group of script items comprises a group of audio files (C6, 9-11 and Fig 2, 34 voice=audio).

38. With respect to **claim 34**: Noble Teaches

wherein each of the audio files are of a common voice type, such that presentation of two audio files appears as if a single person is speaking (see entire Noble document).

39. With respect to **claim 46**: Noble Teaches

wherein the first script is an aggressive script and the second script is a passive script (Noble teaches that the script is chosen based on response C7, 58-60 further it teaches being able to control tone and pitch control, this is the same as being able to be passive or aggressive).

Claim Rejections - 35 USC § 103

40. Claims 5-7 and 47-51 are rejected as being unpatentable in view of Noble. The newly added claims are an arbitrary design choice and an obvious variant in view of the prior art. The prior art teaches using an approach, following script and choosing appropriate cell based upon recipient response (see above). Further Noble teaches

that a TSR (tele service rep) can initiate a "particular voice" and the second voice is responsive to the prospective party (C6, 40-45 and C7, 53-60). Moreover Noble teaches making the response in a second form, that of pitch control and tone.

However Noble fails to teach that the second form is that of another user, in a different sex, language, or accent. Besides the fact there is no support of for the new claim language in the original specification the claims 47-50 as compared to original claim 34 are considered to be obvious variants of form that may be presented to a recipient. If Applicant disagrees with this analysis then a restriction based upon original presentation is forthcoming.

For example the idea of communicating with a recipient in his/her own language would be obvious to one of ordinary skill in the art of telemarketing and/or telephone systems. Evidence of this is provided by the following example of a telephone help desk system. A recipient calls a business and is greeted with an automatic service that says in English (first form) "if the user wants to continue on in English, please press one" and then the system will next say something like "si este persona hablas espanol por favor press dos"; if the user presses the number 2/dos then responsive to that the conversation will continue in Spanish (second form); all by the way is scripted. The use and advantages of this step are well known.

41. Claim 7 and 51 is rejected as being unpatentable over Noble in view of The Communication Technology Lab's web site as being on line as of 2000 (CTL). The reference teaches the graphical presentation of American Sign Language over a network to a graphical user interface was well known at the time of invention. A person

of ordinary skill in telemarketing and presenting information to users faced with the problem of presenting information to a deaf person would be inclined to use the technology as taught by CTL as it was well known to pre-record prompts or scripts that could be activated by a users direction to present a graphical presentation of American Sign Language to a user as is sign language is a well known means of communication for deaf persons. (see reference, a user thereof clicks on a prompt/slash saying in the right hand column which is then presented in video format to user).

Response to Arguments

42. Applicant's arguments filed 2/6/07 have been fully considered but they are not persuasive.

43. In reply to: pg 13 Examiner feels that a prima facie case was produced in the first Office Action and incorporated it into the action; this time however Examiner has inserted the 102 and all limitations into this Office Action to help Applicant further prosecute application and see analysis. Applicant was fully aware of the fact that the rejection incorporated the last rejection as evidenced by pg 14, first paragraph under 102.

44. In reply to: page 14 last P; Applicant argues that Noble fails to teach the script having a first presentation and a second presentation. (le; voice, language, tone) However this is absolutely not true. Noble teaches the claim limitation given the broadest reasonable interpretation of the claim because it absolutely teaches being

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responsive and teaches making the second presentation in a different tone (see abstract and elsewhere and above).

45. In reply to: pg 15;, middle of page, Applicant has removed the 103 rejection. Thus this is moot. However note the examiner is now certain Noble teaches approaches and scripts. Further applicant sates "...a presentation is the group of responses rendered in a particular voice." "Particular voice" is the exact language used by Noble! (C6, 43-44).

46. In reply to: bottom of page 15 bridging 16, Applicant states that Noble fails to teach different presentations because it is the same person's voice. Besides the fact this is exactly what Applicant claimed in claim 34, the first go around, Applicant states even so this would fail to teach a different form/presentation. This is simply not true because Applicant's definition of different presentation encompasses different tone and again this is clearly taught by Noble. Then Applicant says it "absurd" for Examiner to read the claims in such a manner. What is absurd is the fact that Applicant argues what has not properly claimed until newly amended 47-50.

47. In reply to: pg 16 top P, Applicant states something along the lines that because Noble uses "pre-recorded" the reference does not meet the claims. However Applicant is directed to their specification which states specifically an embodiment they use is pre-recorded, {40, line 20}

48. In general Noble is ideal and definitely teaches two presentations because it teaches presenting the second presentation in a different pitch/ and or tone.

Regardless if this is the same persons voice and/or same language.

Conclusion

49. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

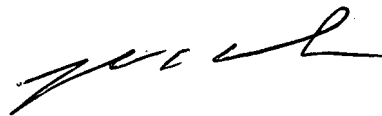
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Brooks whose telephone number is (571) 272-8112. The examiner can normally be reached on Monday - Friday; 8 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-8112. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MLB
6/11/2007



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